

103^D CONGRESS
2^D SESSION

H. R. 4382

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) to provide for the clean up of municipal waste landfill Superfund sites, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 10, 1994

Mrs. JOHNSON of Connecticut (for herself, Mr. FRANK of Massachusetts, and Mr. GEJDENSON) introduced the following bill; which was referred jointly to the Committees on Energy and Commerce and Public Works and Transportation

A BILL

To amend the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (Superfund) to provide for the clean up of municipal waste landfill Superfund sites, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. STATE PROGRAMS FOR CLEAN UP OF MUNICI-**
4 **PAL WASTE LANDFILL SUPERFUND SITES.**

5 (a) STATE PROGRAMS.—(1) The Comprehensive En-
6 vironmental Response, Compensation, and Liability Act of

1 1980 (42 U.S.C. 9601 et seq.) is amended by adding at
2 the end of title I the following new section:

3 **“SEC. 127. MUNICIPAL WASTE LANDFILL SITES.**

4 “(a) STATE PROGRAMS.—

5 “(1) IN GENERAL.—Each State may develop
6 and submit to the Administrator of the Environ-
7 mental Protection Agency a State program under
8 which the State will remediate, in accordance with
9 this section, qualified municipal waste landfills.

10 “(2) SUBMISSION OF PROGRAM.—The Adminis-
11 trator shall require that State programs under this
12 section be submitted at such time, in such form, and
13 in such manner as the Administrator deems appro-
14 priate. Not later than 180 days after receipt of a
15 State program, the Administrator shall approve or
16 disapprove the program. The Administrator shall ap-
17 prove the program if the Administrator determines
18 that the program provides for the remediation of
19 qualified municipal waste landfills in accordance
20 with the provisions of subsection (b). Upon approval
21 of such program, the provisions of this title (other
22 than this section and section 101) shall not apply to
23 any release or threatened release at any qualified
24 municipal waste landfill which is covered by such
25 program. If the program is disapproved, the Admin-

1 istrator shall inform the State of the reasons for the
2 disapproval and permit the State to correct and re-
3 submit the program for approval.

4 “(b) REMEDIATION.—The President shall promul-
5 gate, after opportunity for notice and comment, regula-
6 tions governing response action under this section. Such
7 regulations shall provide for a presumptive remedy to pro-
8 tect public health based on streamlined site characteriza-
9 tion using the Environmental Protection Agency’s Model
10 Municipal Landfill Remedial Investigation and Feasibility
11 Study Guidance and for closure of the site consistent with
12 subtitle D of the Solid Waste Disposal Act. Such presump-
13 tive remedy shall include each of the following:

14 “(1) Waste consolidation where feasible if mul-
15 tiple discrete disposal sites can be more economically
16 contained in one unit.

17 “(2) Final cover, including a barrier layer with
18 a permeability equal to 1×10^{-5} cm per second or a
19 flexible membrane liner of at least 30mm thickness,
20 and properly maintained vegetative cover. Upon
21 demonstration, existing caps providing comparable
22 control may be used or upgraded as needed.

23 “(3) Landfill gas control consistent with sub-
24 title D of the Solid Waste Disposal Act and where

1 necessary passive gas controls unless gas volumes
2 and composition require active collection.

3 “(4) Surface water controls.

4 “(5) Control of leachate where feasible and nec-
5 essary given the landfill’s design and as required by
6 its contact with ground water.

7 “(6) Ground water monitoring as required by
8 subtitle D of the Solid Waste Disposal Act.

9 “(7) Where ground water has been impacted by
10 the site, assurance of no migration of contamination
11 beyond the facility boundary or, if appropriate,
12 treatment at point of withdrawal.

13 “(8) Institutional controls to prevent future ex-
14 posure to waste, including, where appropriate and
15 consistent with local zoning authority, prohibitions
16 on the use of private wells on site or on adjacent
17 properties; creation of buffer zones; use of zoning to
18 prevent future land uses which would disturb the
19 site’s final cover. To the maximum extent feasible
20 and as authorized by the local land control author-
21 ity, beneficial uses consistent with maintenance of
22 proper closure should be employed (e.g., use as park-
23 land, conservation district, active waste management
24 facility, limited access industrial activity, roadway).

1 Residential use is not permitted at sites employing
2 presumptive remedies.

3 “(9) Site security to prevent access inconsistent
4 with closure requirements.

5 “(10) A post-closure care plan that ensures the
6 maintenance and stability of containment and insti-
7 tutional control measures for so long as each meas-
8 ure is necessary to assure the integrity of the rem-
9 edy.

10 If the President has reason to believe, based on site-spe-
11 cific risk factors such as records of disposal of significant
12 quantities of hazardous waste, that the presumptive rem-
13 edy will not protect human health and the environment,
14 he shall require additional protections, including but not
15 limited to, removal of drums or other discrete, accessible
16 areas of high concentration waste where practicable.

17 “(c) REMEDIATION COSTS.—

18 “(1) REIMBURSEMENT FROM SUPERFUND.—

19 The President shall reimburse each State with an
20 approved municipal waste landfill remediation pro-
21 gram for all costs incurred by the State for the re-
22 mediation, in accordance with subsection (b), of haz-
23 ardous substances, pollutants and contaminants at
24 one qualified municipal waste landfill selected by
25 that State in each year which begins after the enact-

1 ment of this section. The President shall use funds
2 in the Hazardous Substance Superfund, up to an
3 amount not exceeding \$2,500,000,000, for purposes
4 of providing such reimbursement. Reimbursement
5 shall be provided for costs incurred with respect to
6 facilities which have a higher public health risk be-
7 fore reimbursement is provided for costs incurred for
8 facilities having a lower health risk. No reimburse-
9 ment shall be provided under this section for any
10 transaction costs or other related costs.

11 “(2) EFFECTIVE DATE.—Reimbursement under
12 paragraph (1) shall be provided for any remediation
13 costs incurred after the date of approval of a State
14 program under this section if the remediation is in
15 accordance with such program.

16 “(3) TRANSITION PROVISIONS.—(A) If remedi-
17 ation commenced before approval of a program
18 under this section and was not completed before
19 January 1, 1994, the President shall reimburse each
20 person who incurred costs for such remediation for
21 such costs if the President determines that the re-
22 mediation is consistent with, or provides at least
23 equivalent protection for public health and the envi-
24 ronment as, the remediation specified in subsection
25 (b).

1 “(B) The Administrator may not reimburse any
2 State or other person for costs incurred for remedi-
3 ation which was completed before January 1, 1994.

4 “(d) LIABILITY EXEMPTION.—

5 “(1) IN GENERAL.—If a State has an approved
6 remediation program which covers qualified municipi-
7 pal waste landfills, no person who is otherwise liable
8 under this Act or under any other Federal law with
9 respect to any release or threatened release of a haz-
10 ardous substance or pollutant or contaminant from
11 any qualified such landfill shall be subject to liability
12 to any other person under this Act or any such other
13 law for injuries, costs, damages, expenses, or other
14 liability (including claims for indemnification or con-
15 tribution and claims by third parties for death, per-
16 sonal injury, illness or loss of or damage to property
17 or economic loss) that results from such release or
18 threatened release.

19 “(2) EXCEPTIONS.—(A) The exemption under
20 this subsection shall not apply in the case of any
21 landfill at which the remediation was completed be-
22 fore January 1, 1994.

23 “(B) The exemption under this subsection shall
24 not apply to any person who violated any Federal,
25 State, or local law relating to the generation,

1 transporation, or disposal of any solid waste which
2 is present at the facility concerned. Any such person
3 shall be liable, in the same manner as provided in
4 section 107, to the State for any costs incurred by
5 the State pursuant to the State program under this
6 section; and such person shall be liable to the Ad-
7 ministrator in the same manner for any such costs
8 for which the Administrator has reimbursed the
9 State under this section.

10 “(e) DEFINITION OF MUNICIPAL WASTE LAND-
11 FILLS.—For purposes of this section, the term ‘qualified
12 municipal waste landfill’ means a landfill listed on the Na-
13 tional Priorities List as of the date of enactment of this
14 section which is designated by the Administrator as—

15 “(1) a site owned by a municipality or county,
16 or

17 “(2) a privately-owned site which has a record
18 of receiving municipal waste.

19 The Administrator shall publish a list of such sites within
20 30 days after the enactment of this section.”.

21 (2) The table of contents for title I of such Act is
22 amended by adding at the end the following new item:

 “Sec. 127. Municipal waste landfills.”.

23 (b) USES OF SUPERFUND.—Section 111(a) of the
24 Comprehensive Environmental Response, Compensation,
25 and Liability Act of 1980 (42 U.S.C. 9611(a)) is amended

1 by inserting after paragraph (6) the following new para-
2 graph:

3 “(7) REIMBURSEMENT OF COSTS FOR REMEDI-
4 ATION OF MUNICIPAL WASTE LANDFILLS.—Payment
5 of not to exceed \$2,500,000,000 for the costs of re-
6 mediation of municipal waste landfills in accordance
7 with section 127.”.

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